

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF NURSING

IN THE MATTER OF THE
APPLICATION FOR LICENSURE
BY ENDORSEMENT OF

KWAME S. DWUMAAH

TO PRACTICE AS A REGISTERED
PROFESSIONAL NURSE IN
THE STATE OF NEW JERSEY

Administrative Action

**FINAL ORDER
OF DENIAL OF APPLICATION**

This matter was opened to the New Jersey State Board of Nursing ("the Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. On or about July 2, 2013, Kwame S. Dwumaah applied to the Board for licensure as a registered professional nurse in the State of New Jersey by endorsement of his Pennsylvania license to practice nursing.

2. On the application he answered "yes" to the question as to whether he had ever been charged with or convicted of a crime or offense.

3. In explanation, Mr. Dwumaah wrote to the Board about a 2006 conviction:

The conviction was based on the allegation that my marriage was a sham. It was later determined that it was bona fide at its inception at immigration court. The conviction was vacated on February 1, 2013. Government appealed, and the case is currently pending at Third Circuit Court of Appeals.

[Signed] Kwame Dwumaah, July 2, 2013

4. A Memorandum by United States District Court Judge Christopher C. Conner dated February 1, 2013 accompanied Mr. Dwumaah's submission. This indicated that Mr. Dwumaah had entered a guilty plea to one count of Theft of Public Monies in violation of 18 U.S.C. 641 and on January 19, 2006 he was sentenced to five months imprisonment and one year of supervised release, as well as \$75,192 in restitution.

3. According to Judge Conner's Memorandum, after serving his sentence, Mr. Dwumaah petitioned to have his conviction vacated, and it was subsequently vacated based upon the Court's finding

That Dwumaah's counsel unconstitutionally failed to advise Dwumaah that the offense to which he ultimately pleaded guilty would result in automatic removal from the United States. His counsel's errors were prejudicial because Dwumaah would not have pleaded guilty and would have insisted on going to trial if Dwumaah had known that his guilty plea would result in automatic removal from the United States.
[Memorandum by U.S. District Court Judge Christopher C. Conner dated February 1, 2013, Page 8].

4. On or about November 12, 2013, Mr. Dwumaah was asked to explain why he provided the Board with an apparently misleading description of the offense to which he pled guilty. He was also asked to provide transcripts of his guilty plea, how much actual restitution he had paid, and why the Board should believe that he would conduct himself with honesty and integrity as a licensee.

5. Mr. Dwumaah maintained that he did not mislead the Board, but was "telling my side of the case and what I believed to be what happened. . . I said that I have a conviction and is also immigration related that has to do with my marriage."

6. Mr. Dwumaah provided the transcripts of his guilty plea to theft of public moneys, which occurred on August 30, 2005. On that date, while under oath, Mr. Dwumaah admitted to knowingly converting United States agency funds to his own use through submission of an application for federal student aid to the U.S. Department of Education which contained false representations regarding his social security number and his eligibility to receive federal higher education benefits, and that he fraudulently induced the Department of Education into awarding him a \$500.00 grant. T83-7 to 22.¹

AUSA Kim Douglas Daniel explained that had the matter gone to trial, the government would have shown that Mr. Dwumaah was a citizen of Ghana who entered the United States in 1989 on a 6-month visitor's visa, but overstayed his visa. T17-2 to 8. Seven years later, he enrolled at the Community College of Philadelphia under the name of Simon Dwumaah, using a social security number assigned to Simon Dwumaah. T17-9 to 13. On his application he claimed that he was a United States citizen, and received "thousands of dollars in higher education benefits, including subsidized and unsubsidized Stafford loans, Pell grants and PHEAA loans." T17-14 to 20.

According to AUSA Daniel, "Mr. Dwumaah was not eligible to receive these benefits, because they are restricted to United States citizens or lawful permanent residents." T17-21 to 24.

Subsequently, Mr. Dwumaah enrolled at Villanova University, and again received thousands of dollars in additional loans and grants to which he was not entitled. T17-24 to 18-11. Of the loans taken out under the name of Simon Dwumaah, according to AUSA Daniel, Mr. Dwumaah did not pay back "one penny." T18-14 to 20. The

¹ T = Transcript of Change of Plea Hearing dated August 8, 2005.

government calculated the total dollar value of all federal higher education benefits paid to Mr. Dwumaah at \$75,129. T18-20 to 19-1.

7. Mr. Dwumaah further explained, "I pled guilty to receiving unlawful \$500 CEAA grant, because I provided a wrong social security number, which [the] government knows it [] assigned to me. . . I was ordered to pay restitution of \$75,000 because they said that if my marriage was sham all the money I received was illegal. The marriage was later proved to be bona fide."

8. Noting that he had paid approximately \$11,300 in restitution, he added that the Board should believe him "because the offense happened before I became a nurse, and since I became a nurse no one has question[ed] my honesty and integrity. I am getting older and most people change at my age. The offense happened about 13 years ago, so any reasonable person can conclude that I have rehabilitated."

9. The Board finds Mr. Dwumaah's description of the offense that he was convicted of was misleading, as under the circumstances no reasonable person could have believed that the sham marriage issue, rather than obtaining money under false pretenses, was the essential issue underlying his conviction.

CONCLUSIONS OF LAW

Mr. Dwumaah's explanation of his conviction, and the reason for which the conviction was vacated, was misleading, constituting misrepresentation and deception within the intendment of N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Denial of Application for Licensure was entered on April 7, 2014. Copies were served upon Mr.

Dwumaah via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Mr. Dwumaah requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Mr. Dwumaah replied to the Provisional Order by providing a lengthy explanation of why he wrote what he did – he was explaining the circumstances that led to his conviction based upon his own layperson's understanding and his beliefs as to what the cases were actually about. He was explaining his side of the case. Mr. Dwumaah sent a second reply which again underscored that he was not trying to mislead the Board, but was merely explaining his version of the circumstances that led to his conviction and which also involved his status with the United States Immigration and Naturalization Service.

Although the Board recognizes that an applicant's submissions will often include persuasive writing and perhaps even a bit of puffery or glazing of the truth, Mr. Dwumaah's submissions perpetuate what seems to be a long standing pattern of behavior involving misrepresentation and deception. First and foremost, in checking the procedural history of Mr. Dwumaah's criminal case and reviewing the court documents thereof, the Board has learned that Dr. Dwumaah's conviction was reinstated prior to his application and explanation to the Board and that he failed to disclose the reinstatement of his conviction. Specifically, on February 1, 2013, the United States District Court for

the Middle District of Pennsylvania vacated Mr. Dwumaah's conviction, which Mr. Dwumaah clearly stated on his application. What he didn't state on his application was that the Government filed a motion for reconsideration, which was granted and on March 27, 2013, the court reinstated Mr. Dwumaah's conviction. This is a vital element of the criminal case history that Mr. Dwumaah failed to disclose in his explanation to the Board when he submitted his application approximately three months later in early July 2013. Additionally, Mr. Dwumaah wrote on this application that the Government appealed. This is not true. The Government did not appeal the February 1, 2013 order vacating the conviction as Mr. Dwumaah wrote; instead Mr. Dwumaah appealed the March 27, 2013 order reinstating his conviction. On June 30, 2014, the United States Court of Appeals for the Third Circuit filed an opinion affirming the March 27, 2013 order reinstating Mr. Dwumaah's conviction.

When Mr. Dwumaah first responded to the Provisional Order, which he dated June 27, 2014, the appellate division decision had not yet been filed and it is reasonable to believe that Mr. Dwumaah did not yet know the outcome. However, when Mr. Dwumaah provided a second response to the Provisional Order, which he dated July 16, 2014, the appellate division had clearly affirmed the reinstatement of his conviction and yet Mr. Dwumaah failed to provide the Board with that important fact. Starting in July 2013 and over the ensuing year and months, Mr. Dwumaah led the Board to believe that his conviction had been vacated by submitting information to the Board to supplement his application. The Board has now learned – by its own means and not by any disclosure of Mr. Dwumaah's -- that his conviction was reinstated and that Mr. Dwumaah has been and still is convicted.

As such, the Board would have an additional legal ground upon which to deny Mr. Dwumaah's application for licensure, namely that he has been convicted of a crime relating adversely to the practice of nursing pursuant to N.J.S.A. 45:1-21(f). For now, however, the Board will proceed on the basis of Mr. Dwumaah's misrepresentation and deception, which now includes misleading the Board by indicating that his conviction was vacated, and failing to advise the Board that the conviction had been quickly reinstated.

Besides this material misrepresentation, Mr. Dwumaah provided an affidavit which he signed and had notarized in 1999 whereby he admitted that he used a different name and a different date of birth when he came to this county because he was afraid of being identified as an illegal alien who would be deported. In the affidavit, Mr. Dwumaah also stated that some of his acquaintances had informed him that they did this previously and experienced no harm in using a different name or names and date of births and that the act of using someone else's name and date of birth is common practice amongst newcomers arriving in the United States. Mr. Dwumaah maintained that he did not intend to commit an unlawful or fraudulent act when he did this. Despite Mr. Dwumaah's intentions, and no matter how common the practice may be amongst his acquaintances or others, it is still misrepresentative, deceptive, and misleading, if not criminal.

Further, in his submissions, Mr. Dwumaah provided the transcript of his testimony, taken under oath in federal court, where he admitted to submitting a federal student aid form which contained false representations regarding his social security number and his eligibility to receive federal higher education benefits. This offers

another example of the tactics Mr. Dwumaah employs while filling out applications and other important forms and embodies his history of misrepresentation and deception.

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited further consideration. Mr. Dwumaah's long term use of different names, dates of births, social security numbers, his explanation of his conviction, misleading statement that his conviction had been vacated, and failure to state that his conviction had been reinstated, all smack of misrepresentation and deception. Respondent's submissions do not inspire confidence or trustworthiness and prevent the Board from finding that Mr. Dwumaah is of good moral character as required by N.J.S.A. 45:11-26.

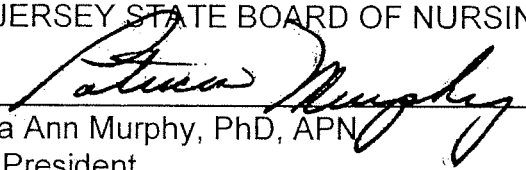
ACCORDINGLY, IT IS on this 1st day of December, 2014,

ORDERED that:

1. Kwame S. Dwumaah's application for licensure as a Registered Professional Nurse in the State of New Jersey is hereby denied.

NEW JERSEY STATE BOARD OF NURSING

By:


Patricia Ann Murphy, PhD, APN
Board President